

## Remarks

In the present response, three claims (1, 14, and 19) are amended. Claims 1-21 are presented for examination.

### I. Claims Rejection: 35 USC § 102(b)

Claims 1, 3-8, 10-12, 14-18, and 20-21 are rejected under 35 USC § 102(b) as being anticipated by USPN 5,835,477 (Binning). Applicant respectfully traverses this rejection.

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See MPEP § 2131, also, *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Since Binning neither teaches nor suggests each element in the claims, these claims are allowable over Binning.

Each of the independent claims recites numerous recitations that are not taught or even suggested in Binning. By way of example, independent claim 1 is amended to recite that plural perturbations formed in the surface represent “only a single data bit.” Independent claims 14 and 19 recite that at least two perturbations are formed in the surface to represent “only a single data bit.” Nowhere does Binning teach or even suggest these recitations. By contrast, Binning teaches that a single perturbation represents a single data bit.

In the “Response to Arguments” section, the Examiner states that the independent claims do not recite that the perturbations “are formed for representing only a single data bit” (see OA of 07/21/06 at p. 6). The independent claims are amended to recite “only a single data bit.”

Applicant has made a sincere effort to place this application in condition for allowance.

For at least these reasons, independent claims 1, 14, and 19 and their dependent claims are allowable over Binning.

## **II. Claim Rejections: 35 USC § 103(a)**

Claim 13 is rejected under 35 USC § 103 as being unpatentable over Binning in view of USPN 5,412,597 (Miyazaki). This rejection is traversed.

As noted in section I, Binning does not teach or suggest all of the elements of independent claim 1. Miyazaki fails to cure these deficiencies. Thus for at least the reasons provided in section I with respect to independent claim 1, dependent claim 13 is allowable over Binning and Miyazaki.

## **III. Claim Rejections: 35 USC § 103(a)**

Claims 2, 9, and 18 are rejected under 35 USC § 103 as being unpatentable over Binning in view of US 2003/0218960 (Albrecht). This rejection is traversed.

As noted in section I, Binning does not teach or suggest all of the elements of independent claims 1 and 14. Albrecht fails to cure these deficiencies. Thus for at least the reasons provided in section I with respect to independent claims 1 and 14, respective dependent claims 2, 9, and 18 are allowable over Binning and Albrecht.

### **CONCLUSION**

In view of the above, Applicant believes that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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